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**DEPARTMENT OF HOMELAND SECURITY
U. S. Customs and Border Protection**

DEPARTMENT OF THE TREASURY

19 CFR Part 148

USCBP-2012-0008

RIN 1515 -AD76

**MEMBERS OF A FAMILY FOR PURPOSE OF
FILING A CBP FAMILY DECLARATION**

AGENCIES: U. S. Customs and Border Protection, DHS; Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: U.S. Customs and Border Protection (CBP) is proposing to revise its regulations regarding U.S. returning residents who are eligible to file a single customs declaration for members of a family traveling together upon arrival in the United States. Specifically, CBP is proposing to expand the definition of the term “members of a family residing in one household” to allow more U.S. returning residents to file a family customs declaration for articles acquired abroad. CBP anticipates that this proposed change will reduce the amount of paperwork that CBP officers would need to review during inspection and, therefore, facilitate passenger processing. CBP believes that this proposed change would more accurately reflect relationships between members of the public who are traveling together as a family.

DATES: Written comments must be received on or before [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments via Docket No. USCBP 2012-0008.
- Mail: Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, N.W. (Mint Annex), Washington, D.C. 20229-1179.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, N.W., 5th Floor, Washington, D.C. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Sophie Galvan, Program Manager, Trusted Traveler Programs, Office of Field Operations, (202) 344-2292.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this proposed rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that supports such recommended change. See ADDRESSES above for information on how to submit comments.

Background

Individuals entering the United States must declare all articles acquired abroad to CBP at the port of first arrival in the United States. Returning residents and nonresidents arriving in the United States must make a declaration, either oral or written, of the merchandise they are importing and must pay duty on the merchandise unless specifically exempted by law. See 19 U.S.C. 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)). Unless an oral declaration is accepted, a person arriving in the United States must complete a written declaration on CBP Form 6059–B and present the form to the CBP officer at inspection.

Personal Exemptions

Subheadings 9804.00.65, 9804.00.70 and 9804.00.72, Chapter 98, HTSUS, extend, under prescribed circumstances, duty exemptions to certain articles imported by or for the account of any person arriving in the United States who is a returning resident of the United States. The duty exemptions (also known as personal exemptions) set forth in these tariff schedule subheadings specify the aggregate fair retail value of merchandise that a returning resident may bring back to the United States without having to pay duty. As authorized by General Note 3(i), HTSUS, part 148 of title 19 of the Code of Federal Regulations (19 CFR) (CBP regulations) sets forth regulations pertaining to personal declarations and exemptions under subchapter IV (Personal Exemptions Extended to Residents and Nonresidents), Chapter 98, HTSUS.

Family Declarations and Grouping of Exemptions

When members of a family residing in one household travel together on their return to the United States, a responsible family member may make a joint declaration, either oral or written, for all members of the family traveling together. This joint family declaration is contingent upon the value of the articles acquired abroad not exceeding the total amount of the exemption to which the family group is entitled. See 19 CFR 148.14. CBP regulations also allow for the aggregation, or grouping, of exemptions by members of a family for articles acquired abroad and for the aggregation of duty allowances for household goods by members of a family. See 19 CFR 148.14, 148.34, and 148.103. For example, when members of a family residing in one household travel together on their return to the United States, the \$800 or \$1,600 exemption, which each family member

may be entitled to claim, may be grouped together without regard to which member of the family is the owner of the articles.¹ 19 CFR 148.34.

Under the current regulations relating to family declarations, a family may file a single, aggregated customs declaration only if they satisfy the definition of “members of a family residing in one household.” See 19 CFR 148.34(b) and 148.103(b). This definition requires that members of a family traveling together who return to the United States be related “by blood, marriage, or adoption;” live together in the same household at their last permanent residence; and intend to live in the same household after returning to the United States. CBP does not believe that the current definition encompasses other relationships where members of the public travel together as a family. CBP believes that the definition unnecessarily limits the number of individuals who may file a family customs declaration for articles acquired abroad.

Proposed Changes to Family Customs Declarations

This NPRM proposes to expand the definition of “members of a family residing in one household” for purposes of filing a customs declaration for returning U.S. residents to more accurately reflect relationships among members of the public who are traveling together as a family.

By expanding the definition of “members of a family residing in one household,” CBP anticipates that the number of declarations (CBP Form 6059-Bs) will be reduced, which would make the processing of passengers by CBP officers more streamlined and efficient. Additionally, CBP believes the traveling public will benefit because more

¹ A group exemption, however, cannot include an exemption for a family member who is not entitled to it in his own right, nor can a group exemption apply to any property of such a member. For example, the exemption of a family member who has not attained the age of 21 regarding the number of permitted duty-free liters of alcoholic beverages cannot be applied under the group exemption.

members of a family traveling together can aggregate their individual personal duty exemptions upon their return to the United States.

Under this NPRM, CBP is proposing to include foster children, stepchildren, half-siblings, legal wards, other dependents, and individuals with an *in loco parentis* or guardianship relationship within the definition of “members of a family residing in one household.” CBP also is proposing that the definition include two adult individuals in a committed relationship wherein the partners share financial assets and obligations, and are not married to, or a partner of, anyone else, including, but not limited to, long-time companions, and couples in civil unions or domestic partnerships. This NPRM proposes to add these relationships to the definition of “members of a family residing in one household” and refer to them as “domestic relationships.” The proposed term “domestic relationship” would not extend to roommates or other cohabitants not otherwise meeting the above definition. Additionally, the proposed changes would not alter the residency requirements that, in order to file a family declaration, members of a family residing in one household must live together in one household at their last permanent residence and intend to live together in one household after their arrival in the United States.

Other Non-substantive, Changes to the Regulations

This proposal would also remove outdated references to “resident servants” of a family and state instead that individuals employed by the household but not related by blood, marriage, domestic relationship, or adoption cannot be included in the family declaration.

Finally, this NPRM proposes to remove the phrase “regardless of age” where it currently appears in the introductory text of §§ 148.34(b) and 148.103(b), because it

would not be consistent with the proposed definition of “domestic relationships,” which is limited to adults.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a “significant regulatory action” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has reviewed this rule.

Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 603), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), which requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (i.e., small business, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for any proposed rule.

This rule directly regulates individuals and families, and these are not considered small entities. Therefore, CBP certifies that this rule will not have a significant economic

impact on a substantial number of small entities. CBP welcomes any comments on this conclusion.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by Office of Management and Budget (OMB). The information collected under 19 CFR part 148 is included under OMB control number 1651-0009. There are no new collections of information proposed in this document. The estimated burden hours related to the completion of the CBP Form 6059-B (Customs Declaration) for OMB control number 1651-0009 by members of the public traveling by air and sea have been updated below to reflect the slight decrease in the number of Customs Declarations that are submitted if the definition of a “member of a family residing in one household” in this proposal is adopted, as follows

Estimated Number of Respondents (Travelers): 1,100,000

Estimated Time per Response: 4 minutes

Estimated Total Responses: -1,100,000

Estimated Total Annual Burden Hours: -72,600

The Customs Declaration (CBP Form 6059B) is due to expire in February 2014. CBP Form 6059B can be seen on the following website:

http://www.cbp.gov/xp/cgov/travel/vacation/sample_declaration_form.xml. CBP seeks public comment as to whether and how the Customs Declaration form could more

clearly inform U.S. residents of the definition of family for the purposes of filling out a customs declaration.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the authority of the Secretary of the Treasury (or that of his or her delegate) to approve regulations pertaining to certain customs revenue functions.

List of Subjects in 19 CFR Part 148

Customs duties and inspection, Declarations, Reporting and recordkeeping requirements, Taxes.

AMENDMENTS TO THE CBP REGULATIONS

For the reasons set forth above, part 148 of the CBP regulations (19 CFR part 148) is proposed to be amended as set forth below.

PART 148- PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority for part 148 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States);

* * * * *

§ 148.14 [amended]

2. Section 148.14 is amended by removing the last sentence and adding in its place the sentence “Individuals who are employed by the household but not related by blood, marriage, domestic relationship, or adoption will not be included in the family declaration.”

3. In § 148.34:

a. Paragraph (a) is amended by removing the last sentence and adding in its place the sentence “No exemptions allowable to individuals employed by the household and accompanying the family but not related by blood, marriage, domestic relationship, or adoption will be included in the family grouping.”; and

b. By revising paragraph (b) and adding a new paragraph (c).

The additions and revisions to § 148.34 are to read as follows:

§ 148.34 Family grouping of exemptions for articles acquired abroad.

* * * * *

(b) Members of a family residing in one household. “Members of a family residing in one household” includes all persons who:

- (1) Are related by blood, marriage, domestic relationship, or adoption;
- (2) Lived together in one household at their last permanent residence; and
- (3) Intend to live in one household after their arrival in the United States.

(c) Domestic relationship. As used in paragraph (b)(1), the term “domestic relationship” includes foster children, stepchildren, half-siblings, legal wards, other dependents, individuals with an *in loco parentis* or guardianship relationship, and two adults who are in a committed relationship including, but not limited to, long-time companions, and couples in civil unions, or domestic partnerships, wherein the partners

share financial assets and obligations, and are not married to, or a partner of, anyone else.

The term “domestic relationship” does not extend to roommates or other cohabitants not otherwise meeting this definition.

4. Section 148.103(b) is revised to read as follows:

§ 148.103 Family grouping of allowances.

* * * * *

(b) Members of a family residing in one household. “Members of a family residing in one household” includes all persons who:

- (1) Are related by blood, marriage, domestic relationship (as defined in § 148.34(c)), or adoption;
- (2) Lived together in one household at their last permanent residence; and
- (3) Intend to live in one household after their arrival in the United States.

Allen Gina

Acting Commissioner
U.S. Customs and Border Protection

Approved: March 20, 2012

Timothy E. Skud

Deputy Assistant Secretary of the Treasury

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